PERFORMANCE-BASED CONTRACTING (PBC)

Overview of Army Initiative

17 MARCH 2004

PURPOSE

- Provide overview of Performance-Based Contracting Initiative for Army's Installation Restoration Program (IRP)
- Discuss current status and next steps

BACKGROUND

- **Performance-Based Contracting is a Federal Government-Wide Initiative**
  - Government Performance and Results Act (of 1993)
  - Federal Acquisition Streamlining Act (of 1994)
  - President's Management Agenda
- **In 2002, 25% of the Department of Defense contracts were performance based**
- **In 2003, 9.6% of the Army's Installation Restoration Program was performance based**
  - Senate Report 108-46, May 2003
    - Armed Services Committee urged the Army to continue exploring appropriate uses of these contracts for contaminated sites

ARMY ENVIRONMENTAL CLEANUP STRATEGY

- **Released April 2003 by Assistant Secretary of the Army (Installations & Environment)**
- Provides roadmap to guide Army in attaining its environmental cleanup vision
  - *The Army will be a national leader in cleaning up contaminated land to protect human health and the environment as an integral part of its mission.*
- Lays groundwork for identification and development of a framework to achieve program goals and objectives
- Encourages development and use of innovative business processes to improve the efficiency of the environmental cleanup program

IRP HISTORY

- Significant variation in program performance
  - Cost and schedule baselines not uniform
  - Progress toward completion is lacking
    - Cost-to-Complete increasing – currently ~$3.4 billion
    - Schedules slipping
      - Completing only 60-70% of planned versus actual milestones
  - Performance-based contracts currently showing 85-90% completion of planned milestones
    - FY03 experienced ~20% cost avoidance with PBC
- Program not incentivized for completion

CHANGE IS NEEDED TO GET DONE

STRATEGY TO "GET IT DONE"

- Increase use of PBC
  - Use incentives for innovation and reaching program completion
- Streamline Army Cleanup infrastructure
  - Get more dollars to the ground doing actual cleanup
- Decrease the number of contract overruns, change orders
- Reduce variability in program performance and optimize project baselines

APPROACH

- Develop corporate acquisition tools ("Toolbox") to accelerate cleanup/closure
- Increase competition
- Maintain contracting flexibility to improve cost effectiveness
  - One size does *not* fit all circumstances
- Contractors must be accountable for their performance

ARMY'S RESPONSIBILITIES

- Army fulfills its program responsibilities by:
  - Approving all performance / remedial objectives
  - Maintaining the Administrative Record
  - Signing all agreements / Decision Documents
  - Maintaining primary interface with Regulators & Public
  - Certifying all deliverables
- Army must be the final decision authority for award, oversight, and payment

ARMY RETAINS ULTIMATE ENVIRONMENTAL LIABILITY

AWARDED PBCs

INSTALLATION	COST-TO-COMPLETE ($M)	TOTAL CONTRACT VALUE ($M)	COST SAVINGS ($M)
Lake City AAP, MO	68.2	52.4	15.8
Fort Jackson, SC	9.8	14.2	(4.4)
Fort Dix, NJ	6.0	3.8	2.2
Sierra Army Depot, CA	27.7	19.3	8.4
Ravenna AAP, OH	12.0	9.8	2.2
Rio Vista, CA	5.06	3.76	1.3
Camp Pedricktown, NJ	2.73	2.88	(0.15)
Hingham Annex, MA	1.92	1.97	(0.05)
Lompoc Disciplinary Barracks, CA	4.4	3.8	0.6
Fort Devens (AOC 50), MA	8.4	7.96	0.44
Fort Sheridan, IL	20.23	17.15	3.08
Fort Pickett, VA	3.5	2.95	0.55
Fort Gordon, GA	20.4	19.4	1.0
Fort Leavenworth, KS	21.8	19.87	1.93
TOTAL	212.14	179.24	**32.9**

Using GFPR resulted in an overall 15.5% cost savings over the cost-to-complete estimates

ARMY METRICS

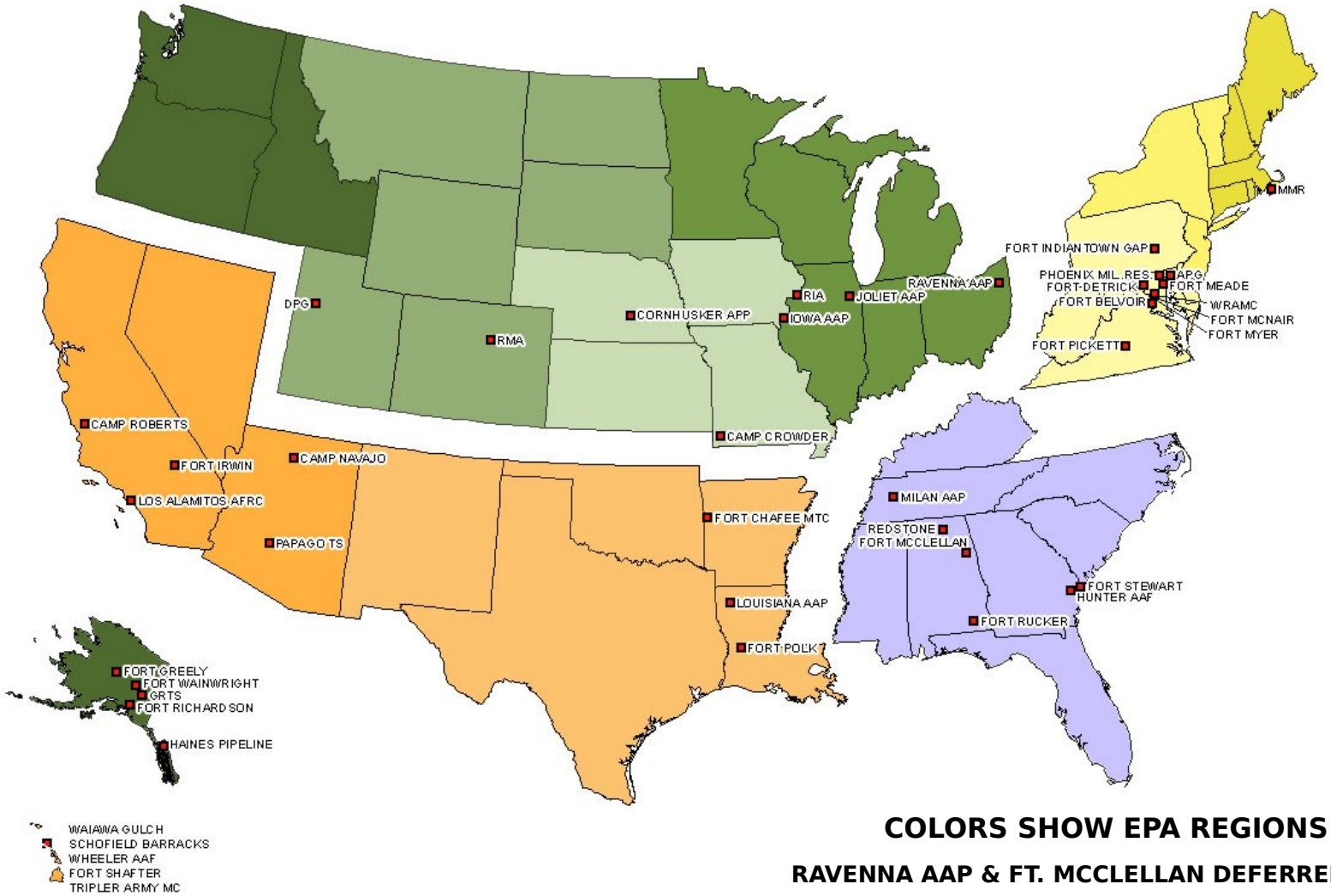
- Installation Restoration Program PBC goals:
  - FY03: 3-5% of total program – **Achieved 9.6%**
  - FY04: 30% of total program
  - FY05: 50% of total program
  - FY06: 70% of total program
  - FY07+: 80% of total program

Planning Targets → ACHIEVE 40% IN FY04 (~$158M*) & 80% BY FY05 (~$316M*)
*Based on ~$395M program

- Measures of Merit show decline in actual vs. projected phase completions (based on actual FY02 and FY03 data)

INNOVATIVE BUSINESS STRATEGIES REQUIRED TO ACHIEVE THESE GOALS

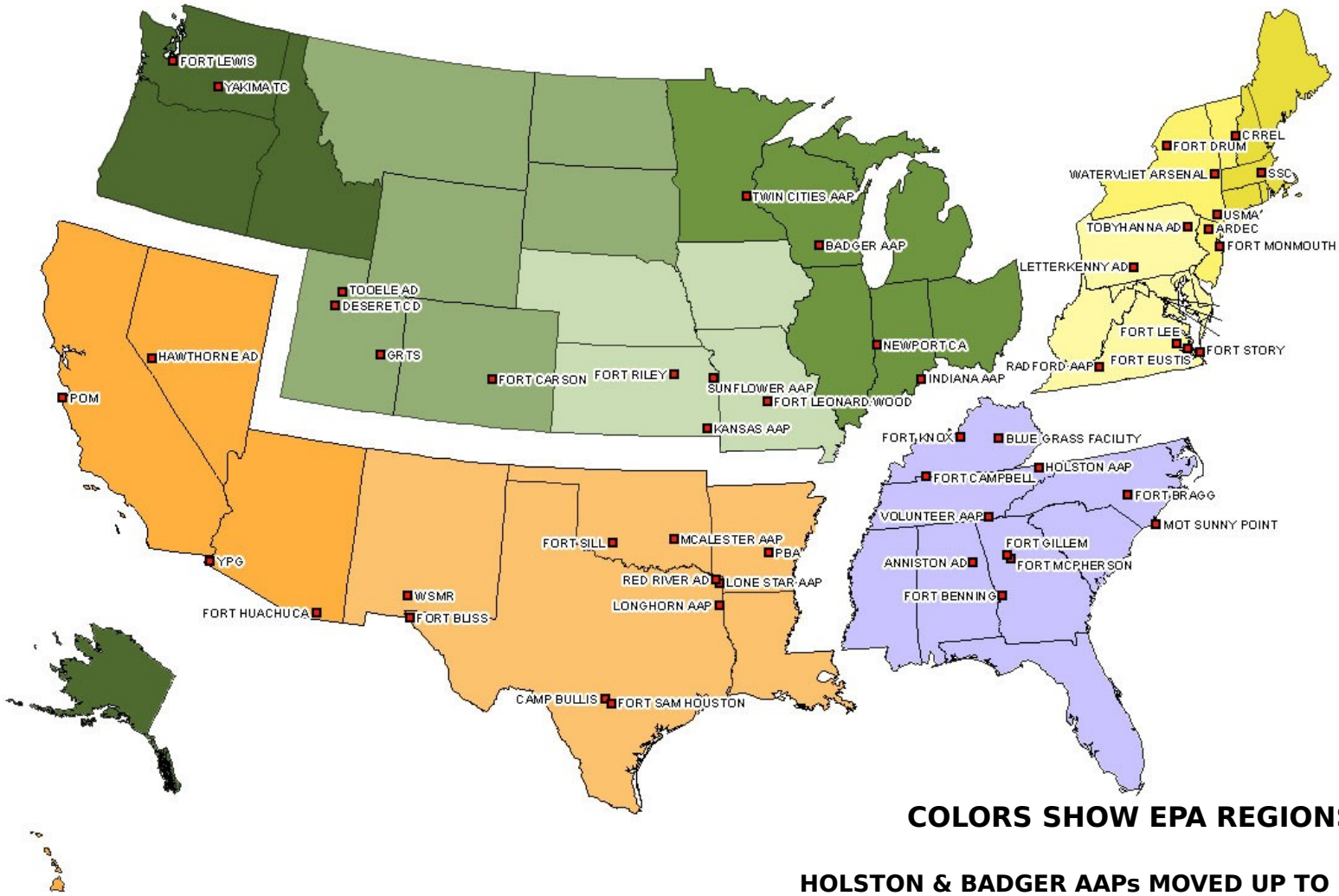
FY04 CANDIDATES



COLORS SHOW EPA REGIONS

RAVENNA AAP & FT. MCCLELLAN DEFERRED

FY05 CANDIDATES



COLORS SHOW EPA REGIONS

HOLSTON & BADGER AAPs MOVED UP TO FY04

SUMMARY

- **Performance-Based Contracts Responsibilities:**
  - **Army remains responsible for cleanup**
  - **Contractor is accountable to the Army for their performance**
    - **Meet schedules**
    - **Save resources that can be reinvested**
- **Seeking EPA/State input on contract performance measures**
- **Army/EPA/State need to partner to ensure performance measures are met to ensure satisfactory project completion and closeout**
- **Army will continue with success achieved in FY03 as candidate locations are evaluated in FY04 and FY05**

RESOURCE:

http://aec.army.mil/usaec/cleanup/pbc00.html

Performance-Based Contracting web page

WHAT IS PBC?

- **Performance-Based Contracting (PBC)** is a mechanism that solicits bids on the basis of what ***RESULTS*** you want achieved rather than what ***ACTIVITIES*** you want conducted
  - Contract for “What,” not “How”

- **Characteristics of PBC:**
  - Clearly defined performance expectations and measures
  - Clearly defined due dates & milestones
  - Use of incentives for performance
  - Flexibility in exchange for accountability for results

PBCs are monitored to ensure performance is being achieved

PBC CONTRACT TYPES

- Acquisition “Tool Box” for Performance-Based Contracting includes…
  - Fixed Price Remediation using Statement of Objectives
  - Fixed Price Remediation using Incentives
  - Guaranteed Fixed Price Remediation (GFPR)
    - With Cleanup Cost Cap Insurance and with or without Pollution Legal Liability Insurance

KEY - Be less prescriptive and contract for objectives and results

PBC FOR ENVIRONMENTAL CLEANUP

- **Goal is for Contractor is to achieve one or more of the following performance objectives for each site identified in the Performance Work Statement:**
  - **Response Complete**
  - **Remedy in Place**
  - **Long-term Monitoring/Successful 5-year Review**
- **Environmental Insurance MAY BE used to protect against cost overruns above the estimated remediation cost**

WHY USE PBC?

- Performance-Based Contracting is intended to improve cost and schedule performance without compromising cleanups that are protective of human health and the environment
  - Aligns with exit strategies / used to optimize systems
  - Reduces risk of cost growth
  - Accelerates cleanup / property transfer
  - Reduces contract reporting and oversight

SAFETY vs. SPEED?

- PBC does not trade safety for speed
- Safety and quality can be incentivized
- Innovation can be incentivized
  - Perception is that private cleanup goes faster
  - Learn and apply the proven private sector practices

PERCEIVED “CONS”

- Some initial short-term (transitional) impacts:
  - Contractors get paid when milestones are achieved and so schedules may accelerate
  - New teams may be put in place on the contractor side
- Public perception of lower Army involvement
- Change is difficult

WHAT IS THE ARMY DOING DIFFERENTLY?

The Army PBC effort is:

- Generally focusing on adequately characterized sites
- Defining a discreet scope with well-defined endstates, bought-in by regulators
- Understanding the cost including high, low, most likely and walk-away parameters
- Making adequate if not all funding available to support the project schedule
- Utilizing the highest rated underwriters, combining CCC and PLL where appropriate, requiring a Waiver of Subrogation, and listing the Army as additional insured

ROLE OF THE INSTALLATION RESTORATION PROGRAM MANAGER

Little change! Installation RPM still…

- Oversees contract
- Interfaces with Regulators, along with Contractor
- Interfaces with Public
- Manages and monitors long-term operations
- Manages contract cost, schedule, and reporting
  - Army has centralized restoration program management and database management at the US Army Environmental Center for improved data quality and ease of reporting/response to out of cycle data

ROLE OF THE REGULATOR

- Beginning with initial scoping meetings as attend information sessions with installation personnel and contract team
- Participate in development of performance measures for the contract, and comment on the draft Performance Work Statement
- Participate in Bidders' conferences to present regulatory views to prospective contractors
- After project begins, continue to maintain active role by reviewing remedial activities prior to implementation
  - Provides comments on site documents
- **Ultimately concurs with remedy completion**

REGULATORY PARTICIPATION

- Regulatory concerns are solicited prior to completion of PWS
- Regulatory participation/review of PWS
- Regulatory remarks during bidders site visit
- Regulatory participation/technical evaluation panels
- Payment milestones for the PBC contractor are tied to regulatory closure (RIP or RC)

ROLE OF THE RESTORATION ADVISORY BOARD (RAB)

No change! Public retains stakeholder involvement in decision-making process

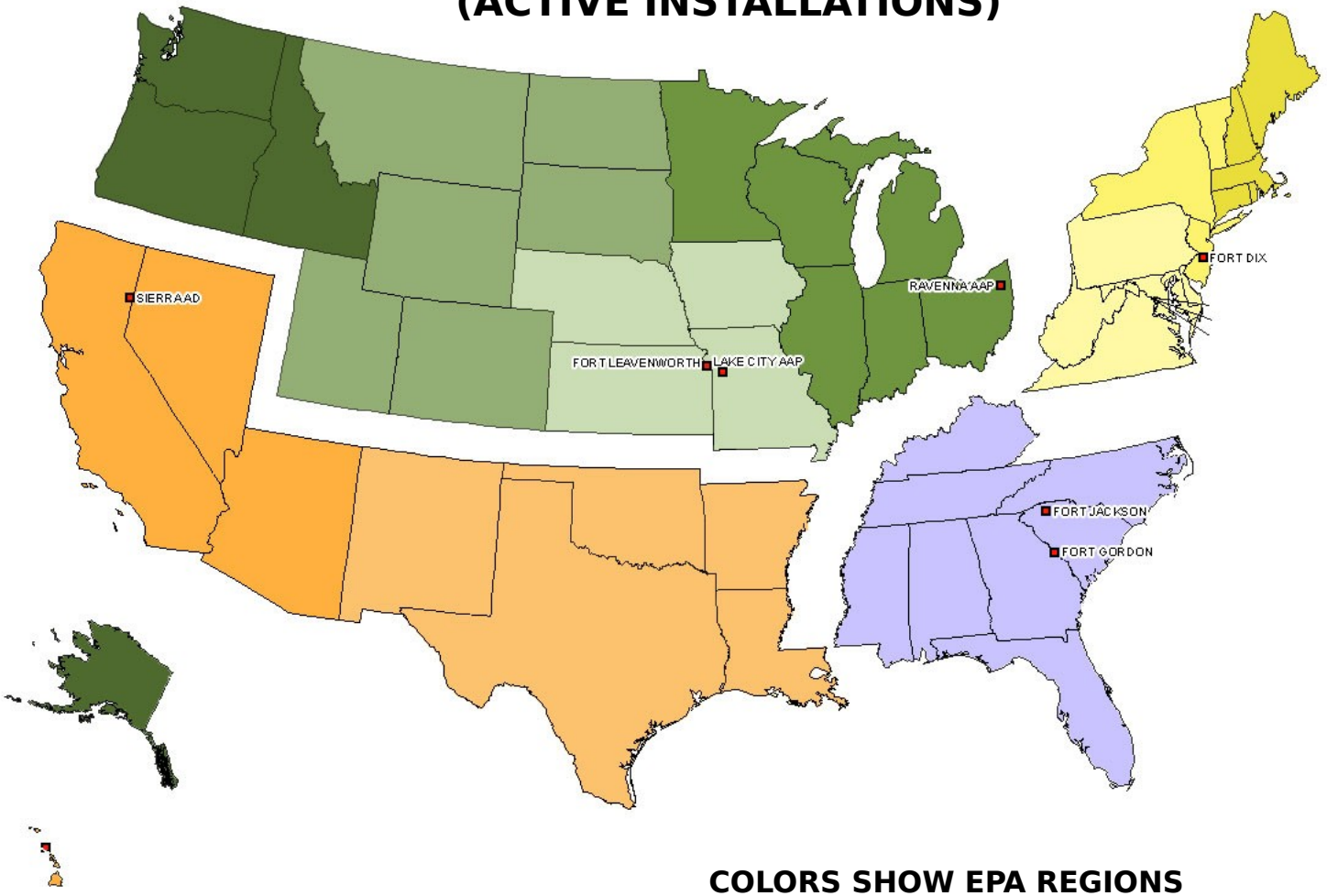
- Provide advice on environmental restoration issues
- Conduct regular meetings open to the Public
- Keep meeting minutes that are available to the Public
- Review, advise, and comment on environmental restoration documents
- Recommend project requirements
- Recommend site cleanup priorities
- Provide advice and comment on restoration issues
- Represent and communicate Community interests and concerns

ENVIRONMENTAL INSURANCE

- Policies typically used:
  - Stop Loss/Cleanup Cost Cap protects against:
    - Remediation cost overruns
    - Covers known and unknown contamination at known sites but not new sites
    - Change in regulatory standards
  - Pollution Legal Liability (PLL) protects against:
    - 3rd party claims for bodily injury and property damage (e.g., contamination migrates off site and damages private property)
    - Discovery of new contaminants outside of known site boundaries

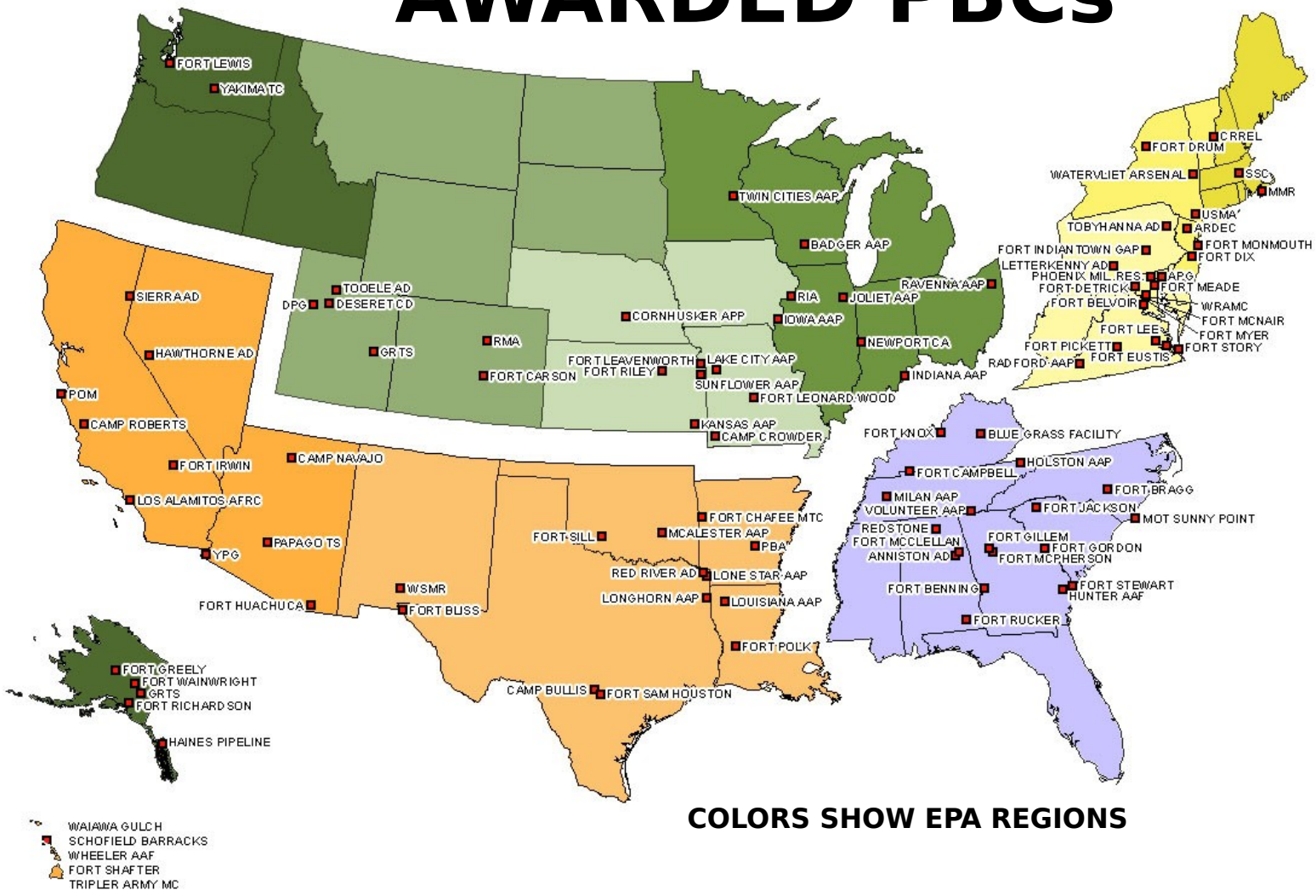
PBCs AWARDED

(ACTIVE INSTALLATIONS)



COLORS SHOW EPA REGIONS

FY05+: POTENTIAL + AWARDED PBCs



COLORS SHOW EPA REGIONS

COLLABORATION

- The Army will continue to work with Installations, Regulators, and Communities when considering options for Performance-Based Contracting
- The Army, as Lead Agent, still maintains responsibility for the cleanup and the Regulators still have approval authority
- Installation team continues to be primary point of contact for the Army
- Regulatory participation is encouraged throughout the PBC process